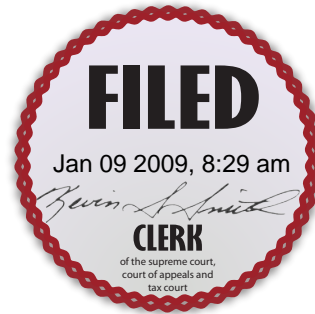


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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RAPHAEL RAPHLAH,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0806-CR-521

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APPEAL FROM THE MARION SUPERIOR COURT

The Honorable Barbara Collins, Judge

Cause No. 49F08-0802-CM-47325

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**January 9, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**ROBB, Judge**

### Case Summary and Issue

Following a bench trial, Raphael Raphlah appeals his conviction of criminal trespass, a Class A misdemeanor. On appeal, Raphlah raises one issue, which we restate as whether sufficient evidence supports his conviction. Concluding sufficient evidence supports Raphlah's conviction, we affirm.

### Facts and Procedural History

On the morning of February 26, 2008, Officers Donald Randall and Timothy Westehof of the Indianapolis Metropolitan Police Department responded to a call at the Saint Regis apartment complex in Indianapolis. Upon arrival, the officers spoke with Patricia Candler, a co-owner of the complex, who explained to them that she discovered Raphlah trespassing in a first-floor commercial suite. Candler also explained that the suite was rented to Olga Jefferson, but that Jefferson had apparently abandoned the premises after having last paid rent in November or December 2007. Raphlah claimed he had been subleasing the suite from Jefferson, but after Candler explained to the officers that Jefferson was not permitted to sublet, the officers told Raphlah to leave. Raphlah complied, but later returned around 1:30 that afternoon and was arrested after refusing to leave.

The State charged Raphlah with criminal trespass, a Class A misdemeanor. On May 14, 2008, the trial court presided over a bench trial, hearing testimony from Candler, Officers Randall and Westehof, and Raphlah, among others. Based on this evidence, the trial court found Raphlah guilty. Raphlah now appeals.

### Discussion and Decision

Raphlah challenges the sufficiency of the evidence supporting his criminal trespass conviction. Our supreme court has articulated the following standard of review to apply when faced with such challenges:

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations, footnote, and citations omitted) (emphasis in original).

To convict Raphlah of criminal trespass as a Class A misdemeanor, the State had to prove beyond a reasonable doubt that Raphlah, while lacking a contractual interest in Candler's property, knowingly or intentionally refused to leave the property after having been asked to do so. See Ind. Code § 35-43-2-2(b). Raphlah's sole argument on appeal is that because he "had a good faith belief he had sublet the property in question," the State failed to prove beyond a reasonable doubt that he lacked a contractual interest. Appellant's Brief at 5. Raphlah omits, however, that a defendant's good faith belief is not entirely subjective; instead, belief in a contractual interest also "must have a fair and reasonable foundation." Myers v. State, 190 Ind. 269, 130 N.E.2d 116, 117 (Ind. 1921).

Our opinion in Woods v. State, 703 N.E.2d 1115, 1117 (Ind. Ct. App. 1998), provides a good example of when a defendant's belief in the existence of a contractual interest is based on a "fair and reasonable foundation." The defendant in Woods was convicted of criminal trespass after refusing to leave a health club of which she was a member. In reversing the conviction, we noted the health club manager's concession that the defendant was a member, coupled with evidence that members were entitled to unrestricted access to the health club's facilities during working hours, "was an undisputed factual basis for [the defendant's] belief that she had a contractual right to be on the premises." Id.

In contrast to the evidence presented in Woods, in this case the only evidence supporting a finding that Raphlah's belief was based on a fair and reasonable foundation was Raphlah's own testimony, specifically that he sublet the property from Jefferson, that he received permission to do so from the complex's manager (apparently one of Candler's subordinates), and that he paid the manager \$400 cash. Raphlah did not, however, introduce any evidence, documentary or otherwise, to corroborate his testimony. More to the point, Candler refuted Raphlah's version of events, testifying that Jefferson was not permitted to sublet and that although Raphlah had submitted a lease application, it was denied in part because he failed to provide proof of income. In finding Raphlah guilty, the trial court necessarily credited Candler's testimony, and we are not convinced that her testimony precluded a finding that Raphlah's belief in the existence of a contractual interest was unreasonable. Thus, it follows that the State presented sufficient evidence to convict Raphlah of criminal trespass.

### Conclusion

Sufficient evidence supports Raphlah's criminal trespass conviction.

Affirmed.

CRONE, J., and BROWN, J., concur.